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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

United States of America,  
Plaintiff,

v.

Sammie Bicenti Chee,  
Defendant.

No. CR-82-00116-PHX-JAT

**ORDER**

Defendant Sammie Bicenti Chee, who is confined in the Federal Correctional Institution (FCI) in Petersburg, Virginia, has filed a Motion for Reduction Sentence pursuant to the First Step Act, 18 U.S.C. § 3582(c)(1)(A). (Doc. 319.) The United States did not respond to the motion, and the time to do so has expired.

The Court will deny the Motion.

**I. Background**

In 1982, Defendant committed the crimes for which he is currently incarcerated. He attacked his aunt, his 14-year-old niece, and a third woman with an axe while they slept. (*See* Doc. 73 at 1–2.) He set his aunt and the other women on fire, and he violently raped the 14-year-old, both orally and vaginally. (*See id.*) Defendant’s aunt suffered serious burns to her face, chest, and arm, and the other woman died after suffering head trauma and third-degree burns over 90 percent of her body. (*See id.*) In addition to being raped, the 14-year-old suffered a fractured skull and collarbone. (*See id.*) Prior to these crimes, Defendant shot a woman for rebuffing his sexual advances in 1965; in 1967, Defendant

1 and another man assaulted a woman with a knife and attempted to rape her; and in 1974,  
 2 Defendant beat a woman to death with a metal pole because he thought she had refused his  
 3 sexual advances. (*See id.* at 5–6.)

4 Plaintiff was sentenced to 30 to 90 years in the Bureau of Prisons (BOP) for the  
 5 1982 attack on his aunt, niece, and the third woman. (*See id.* at 3.) Defendant’s projected  
 6 release date is April 13, 2038.<sup>1</sup>

7 Defendant has been incarcerated for his 1982 crimes for over 40 years and now  
 8 seeks a reduced sentence based on his advanced age and his physical and cognitive decline.  
 9 (Doc. 95.)

## 10 **II. Compassionate Release or Reduction in Sentence**

### 11 **A. Legal Standard**

12 “Ordinarily, a federal court may not modify a term of imprisonment once it has been  
 13 imposed.” *United States v. Wright*, 46 F.4th 938, 944 (9th Cir. 2022) (internal quotations  
 14 omitted) (citing *United States v. Keller*, 2 F.4th 1278, 1281 (9th Cir. 2021)). However, 18  
 15 U.S.C. § 3582(c), as amended by the First Step Act of 2018 (FSA), “allows certain inmates  
 16 to seek a form of sentence modification called compassionate release by filing motions to  
 17 that effect with the district court.” *United States v. King*, 24 F.4th 1226, 1228 (9th Cir.  
 18 2022) (citing *Dillon v. United States*, 560 U.S. 817, 824 (2010)); *see also* FSA, Pub. L. No.  
 19 115-391, § 603, 132 Stat. 5194 (Dec. 21, 2018). When a prisoner moves for compassionate  
 20 release, “district courts may reduce his term of imprisonment if four conditions are met:  
 21 (1) the defendant exhausted administrative remedies; (2) extraordinary and compelling  
 22 reasons warrant a sentence reduction; (3) a sentence reduction is consistent with applicable  
 23 policy statements issued by the U.S. Sentencing Commission; and (4) the district court  
 24 considered the factors set forth in 18 U.S.C. § 3553(a).” *United States v. Chen*, 48 F.4th  
 25 1092, 1094-95 (9th Cir. 2022) (internal quotations omitted). A court “may deny  
 26 compassionate release if a defendant fails to satisfy any of these grounds.” *Wright*, 46  
 27 F.4th at 945.

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28 <sup>1</sup> *See* <https://www.bop.gov/inmateloc/> (last visited May 3, 2024).

1           **B. Exhaustion**

2           Defendant bears the burden of proving that he has “met the exhaustion criteria set  
3 forth in § 3582(c)(1)(A).” *United States v. Packard*, No. 19-CR-3886-H, 2021 WL  
4 4751173, at \*2 (S.D. Cal. Oct. 12, 2021). Exhaustion under § 3582(c)(1)(A) requires that  
5 a defendant first request compassionate release from the warden at his or her facility, and  
6 that the request be denied or 30 days elapse without a response. *See* 18 U.S.C.  
7 § 3582(c)(1)(A).

8           Defendant asserts that, “[o]n or about October 31, 2023,” he submitted a “request  
9 to Warden Leu of FCC Petersburg, for ‘compassionate release’ based on [Defendant’s] age  
10 related medical issue[,]” but he had not received a response to his request as of December  
11 13, 2023. (*See* Doc. 95 at 4, 5.) He also asserts that a prison official informed him “that  
12 the institution is not processing any compassionate release request[s] until the [BOP]  
13 updates its Program Statements” under the Sentencing Guidelines. (*Id.* at 5.) Plaintiff did  
14 not present a copy of the request he submitted to the Warden or any other proof that he  
15 satisfied the exhaustion requirement. On this record, Defendant has not carried his burden  
16 of providing proof that he satisfied the exhaustion criteria set forth in § 3582(c)(1)(A).  
17 Moreover, even if the Court accepts as true Defendant’s assertion that he submitted a  
18 compassionate release request to the Warden and never received a response, Defendant has  
19 not shown that extraordinary and compelling reasons warrant relief under § 3582 or that  
20 the 18 U.S.C. § 3553(a) sentencing factors justify such relief.

21           **C. “Extraordinary and Compelling Reasons”/18 U.S.C. § 3553(a) Factors**

22           “[T]he determination of what constitutes extraordinary and compelling reasons for  
23 sentence reduction lies squarely within the district court’s discretion.” *Chen*, 48 F.4th at  
24 1095 (citing *United States v. Aruda*, 993 F.3d 797, 801 (9th Cir. 2021) (per curiam)). As  
25 relevant here, the only limitation on this discretion is that “rehabilitation alone cannot be  
26 extraordinary and compelling.” *Id.* at 1096 (citing 28 U.S.C. § 994(t)) (internal quotation  
27 omitted). Defendant bears the burden of showing that extraordinary and compelling  
28 reasons warrant a reduction in his sentence. *United States v. Sprague*, 135 F.3d 1301,

1 1306-07 (9th Cir. 1998).

2 Additionally, pertinent factors under § 3553(a) include the “nature and  
3 circumstances of the offense and the history and characteristics of the defendant,” the need  
4 for the sentence “to reflect the seriousness of the offense, to promote respect for the law,  
5 and to provide just punishment for the offense,” to deter criminal conduct and protect the  
6 public, and to provide effective correctional treatment, including education or vocational  
7 training and medical care. 18 U.S.C. § 3553(a)(1), (2). The Court may also consider the  
8 advisory guideline range and the need to “avoid unwarranted sentencing disparities among  
9 similarly situated defendants and to provide restitution to victims. 18 U.S.C. § 3553(a)(4),  
10 (6)-(7).

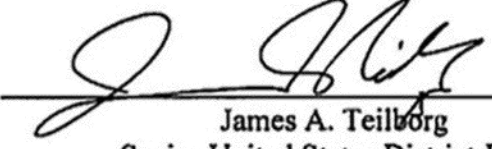
11 Having carefully considered the Motion and the facts of this case, the Court finds  
12 that there are no “extraordinary and compelling reasons” to warrant a sentence reduction  
13 pursuant to § 3582(c)(1)(A). Defendant asserts that “the BOP is ill-equipped to provide  
14 for his healthcare at this stage of his life.” (Doc. 95 at 3.) But Defendant has not presented  
15 any evidence to show that he is currently receiving inadequate medical care at FCI-  
16 Petersburg. Moreover, the Court already considered this argument when Plaintiff sought  
17 compassionate release November 2020 and determined that § 3582 relief was not  
18 warranted because Defendant had “failed to show that he would not be a danger to his  
19 community upon release[.]” (*See* Doc. 73 at 5.)

20 Defendant has a long history of violent, sex-based crimes. The Court previously  
21 noted that “it does not take a young or physically strong man to fire a gun or light a match  
22 . . . [n]or does it take a young or physically strong man to harm a minor.” (*Id.* at 6.) In  
23 light of his violent history, Defendant has not adequately shown that he is no longer a  
24 danger to the public. Reducing Defendant’s sentence would not reflect the seriousness of  
25 his offense, promote respect for the law, provide a just punishment for his serious offense,  
26 or afford adequate deterrence to criminal conduct. Defendant’s advanced age does not  
27 outweigh the seriousness of his offense conduct that gave rise to the sentence he is serving.  
28 As such, the § 3553(a) factors do not weigh in favor of a reduction of Defendant’s sentence.

1 Accordingly,

2 **IT IS ORDERED** that Defendant's Motion to Reduce Sentence (Doc. 95) is  
3 **denied.**

4 Dated this 15th day of May, 2024.

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James A. Teilborg  
Senior United States District Judge